



Order Filed on September 23,
2019 by Clerk U.S. Bankruptcy
Court District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

LAW OFFICES OF KENNETH L. BAUM LLC
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Attorneys for Clermont Holdings, LLC

In re:

NEW ENGLAND MOTOR FREIGHT, INC., *et al.*,

Debtors.

Chapter 11

Case No. 19-12809 (JKS)
(Jointly Administered)

**CONSENT ORDER AUTHORIZING RETENTION AND SETOFF OF SECURITY
DEPOSIT AND ALLOWING CLAIM NO. ECN-438 OF CLERMONT HOLDINGS, LLC,
AS AMENDED**

The relief set forth on the following pages, numbered two (2) through four (4), is hereby
ORDERED.

DATED: September 23,
2019

A handwritten signature in black ink, appearing to read "JK Sherwood".

Honorable John K. Sherwood
United States Bankruptcy Court

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Debtor: NEW ENGLAND MOTOR FREIGHT, INC., *et al.*
Case No. CASE NO. 19-12809 (JKS)
Caption of Order: CONSENT ORDER AUTHORIZING SETOFF AND RETENTION OF SECURITY DEPOSIT AND ALLOWING CLAIM NO. ECN-438 OF CLERMONT HOLDINGS, LLC, AS AMENDED

THIS CAUSE having come before the Court upon the joint request of New England Motor Freight, Inc., one of the above-captioned debtors-in-possession (the “Debtor”), and Clermont Holdings, LLC (“Clermont”); and it appearing that Clermont, as Landlord, and the Debtor, as Tenant, were parties to that certain *Lease By and Between Meridian Investments, LLC and New England Motor Freight, Inc.*, dated as of July 2009 (as amended, the “Lease”), for property located at 2500 Commerce Boulevard, Cincinnati, Ohio; and it further appearing that, pursuant to the Lease, Clermont is holding the sum of \$7,000.00 as a security deposit (the “Security Deposit”); and it further appearing that pursuant to an *Order (I) Authorizing the Rejection of Certain Unexpired Leases of Non-Residential Real Property, (II) Authorizing the Abandonment of Related Property, (III) Establishing a Claims Bar Date, as Applicable, and (IV) Granting Related Relief* entered on April 16, 2019 [Docket No. 472], and an *Amended Order (I) Authorizing the Rejection of Certain Unexpired Leases of Non-Residential Real Property, (II) Authorizing the Abandonment of Related Property, (III) Establishing a Claims Bar Date, as Applicable, and (IV) Granting Related Relief* entered on April 18, 2019 [Docket No. 478] (together, the “Rejection Order”), *inter alia*, the Lease was rejected effective as of March 31, 2019, and Clermont is prohibited from setting off or otherwise using the Security Deposit to reduce its claim(s) against the Debtor without prior Court approval; and it further appearing that on June 17, 2019, Clermont filed a Proof of Claim in the amount of \$55,433.10, which is listed as Claim No. ECN-438 in the Court’s Official Register (the “Proof of Claim”); and it further appearing that the Proof of Claim is comprised of \$9,433.10 in pre-petition arrears and

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\$46,000.00 in damages flowing from the rejection of the Lease pursuant to 11 U.S.C. § 502(b)(6); and it further appearing that the Proof of Claim was filed in a timely manner and is allowable as a general unsecured claim against the Debtor's estate; and it further appearing that retention and setoff of the Security Deposit against the Proof of Claim by Clermont is appropriate under the circumstances; it is hereby

ORDERED that Clermont be and is hereby authorized to retain and set off the Security Deposit against the Proof of Claim; and it is further

ORDERED that the Proof of Claim be and is hereby allowed as a general unsecured claim against the Debtor's estate in the amount of \$48,433.10 (i.e., the original filed amount of \$55,433.10 less the Security Deposit); and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

We hereby consent to this form of Order.

LAW OFFICES OF KENNETH L. BAUM LLC
Attorneys for Clermont Holdings, LLC

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